

When Does an Advance Directive Become Operative?

- ✳ When it is transmitted to your doctor, hospital or other health care provider; and
- ✳ When you lack the capacity to make a particular health care decision.

Remember, an Advance Directive may request that treatment be given, not just withheld or withdrawn.

Copies of your advance directive should be shared with your doctor, your proxy if you choose to name one, your family and friends, anyone who might be called upon if you are in need of medical care and unable to make decisions.

Under New Jersey Law, treatment can be withheld or withdrawn in accordance with an Advance Directive.

- ✳ If the treatment is experimental or is likely to be ineffective or futile;
- ✳ If you are permanently unconscious;
- ✳ If you are in a terminal condition; or
- ✳ If you have a serious irreversible condition and the burdens of treatment outweigh the benefits.

Where Can I Get More Information About Advance Directives?

Lawyers, Doctors, Hospitals and Clinics all have information about Advance Directives. You may also contact your County Medical Society, your County Bar Association, or your County Board of Social Services.

On the Internet, there are many sources for information about Advance Directives, some of which provide sample forms. The New Jersey Commission on Legal and Ethical Problems in the Delivery of Health Care prepared a booklet that is available on-line at www.state.nj.us/health/ltc/advance_directives.pdf

Some other web resources include:

Familydoctor.org/003.xml
www.americangeriatrics.org/education/forum
www.bazelon.org
www.compassionindying.org/ad.php
www.kidney.org
www.medicalert.org
www.neri.org
www.partnershipforcaring.org
www.uslivingwillregistry.com/forms

Remember, though, YOUR Advance Directive should reflect YOUR wishes, values and desires.

Provided as a public service by the New Jersey Office of the Ombudsman for the Institutionalized Elderly, William P. Isele, Ombudsman, and the New Jersey Department of Health and Senior Services.

Advance Directives in New Jersey

By
WILLIAM P. ISELE, M.A., J.D.

*New Jersey Ombudsman for
the Institutionalized Elderly*

May 2005



RICHARD J. CODEY
Acting Governor



FRED M. JACOBS, M.D., J.D.
Commissioner

What Is an Advance Directive?

You have the right to decide what medical treatment you want, or do not want to receive. What happens to that right if you become physically or mentally unable to communicate your wishes and values? You can decide in advance what treatment you would want, and put that decision in writing, or you may name someone else, who understands and shares your values, to exercise that right for you. This is called an Advance Directive.

Under New Jersey Law, there are three kinds of Advance Directives:

- ✳ A Proxy Directive, which names a person to make health care decisions when you no longer can (this is sometimes called a “health care proxy” or a “health care power of attorney);
- ✳ An Instruction Directive, which expresses your desires/instructions for treatment (this is sometimes called a “Living Will”); or
- ✳ A Combined Directive, which names a proxy and gives instructions for treatment.

Who Should Prepare an Advance Directive?

Anyone who is over the age of 18 and understands what he or she is doing can prepare an advance directive. **You may want to consider preparing an advance directive if:**

- ✳ You want your doctor or other health care provider to know the kind of medical care you want or don’t want, in the event that you become unable to speak for yourself;
- ✳ You want to relieve your family of the responsibility for making decisions about your medical care.

Advance Directives are not only for the elderly or people with chronic illnesses. In fact, young, healthy people may suffer injuries in accidents that can make them temporarily or permanently unable to speak for themselves.

Federal Law requires hospitals to ask all patients, upon admission, whether they have Advance Directives. But now, when you are healthy, relaxed, and thinking clearly is really the best time to think about Advance Directives.

Is Making an Advance Directive Complicated?

Deciding what health care services you want may be complicated, but making an advance directive is not. **All that is required is:**

- ✳ That it be in writing;
- ✳ That it be signed by you;
- ✳ That your signature be witnessed by two adult witnesses (over 18) or by a Notary Public or other legal official (like a New Jersey attorney or Judge).

There is no specific form of Advance Directive that must be followed in New Jersey, although there are many model forms available. You don’t need a lawyer to prepare an Advance Directive. It can be as simple as a letter stating your health care wishes, or naming the person you trust to make health care decisions for you.

It is very important, if you choose to name a trusted friend as a proxy to make decisions for you when you no longer can, that you inform that person, and discuss your desires and values with him or her. The whole idea of an Advance Directive is to assure that your wishes will be honored. No one can honor your wishes unless they know what they are!